

TOWN OF FITZWILLIAM
PLANNING BOARD
RULES OF PROCEDURE
Previously Amended August 20, 2013
Amended May 7, 2019

AUTHORITY

1. These Rules of procedure are adopted under the authority of New Hampshire Revised Statutes Annotated, 1983, Chapter 676:1 as amended eff. July 6, 2010.

MEMBERSHIP

1. The Planning Board shall consist of seven (7) members, six (6) elected by the Town, and an ex-officio member appointed by the Selectmen.
2. Each Planning Board member shall be a resident of the Town of Fitzwilliam.
3. Any two appointed or elected members of the planning board may also serve together on any other municipal board or commission, except that no more than one member of the planning board shall serve on the conservation commission, the local governing body, or a local land use board as defined in RSA 672.7. Per RSA 673.7 eff. August 13, 2011.

TRAINING

Within the first year of assuming office, a new member of a planning board may complete training offered by the office of strategic initiatives, per RSA 673:3-a.

TERMS OF BOARD MEMBERS

Vacancies in the membership of a local land use board occurring other than through the expiration of a term of office shall be filled as follows:

1. For an elected member, by appointment by the remaining board members until the next regular municipal election at which time a successor shall be elected to either fill the unexpired term or start a new term, as appropriate.
2. For an appointed, ex-officio, or alternate member, by the original appointing or designating authority, for the unexpired term.
3. The chairperson of the local land use board may designate an alternate member of the board to fill the vacancy temporarily until the vacancy is filled in the manner set forth in paragraph I or II. If the vacancy is for an ex-officio member, the chairperson may only designate the person who has been appointed to serve as the alternate for the ex-officio member. (RSA 673.12 eff. Aug. 21, 2009.)

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APPOINTMENT, NUMBER AND TERMS OF ALTERNATE MEMBERS

1. The Planning Board may appoint five (5) alternate members to the Board. The terms of the alternate members shall be three (3) years each which shall be staggered in the same manner as elected members pursuant to RSA 673:5, II.
2. Every alternate member appointed to the Planning Board shall comply with the multiple membership requirements of RSA 673:7, 6 as do regular members.

OFFICERS and ADMINISTRATION

1. A Chairman shall be elected annually by a majority vote of the Board at the first meeting in April of each year. The Chairman shall preside over all meetings and hearings, appoint such committees as directed by the Board and shall affix his signature in the name of the Board.
2. A Vice-Chairman shall be elected annually by a majority vote of the Board at the first meeting in April. The Vice-Chairman shall preside in the absence of the Chairman and shall have the full powers of the Chairman on matters which come before the Board during the absence of the Chairman.
3. A Secretary shall be elected annually by a majority vote of the Board at the first meeting in April. The Secretary shall sign all subdivision plats with the Chair, and notices of decision in the absence of the Chair, for the Board. When necessary these functions may be handled by the Vice-Chairman.
4. Officers shall serve until elections are held the following April and shall be eligible for re-election. (RSA 673:9.)
5. The Land Use Administrative Assistant, a member of the staff who is not a member of the Planning Board, shall maintain a record of all meetings, transactions and decisions of the Board and perform such other duties as the Board may direct. The job description is available in both the Land Use Office and the Board of Selectmen Office.
6. An ex-officio Board Member shall not serve as Chairman (RSA 673:9, II).
7. The Vice Chairman will be the acting chairman in the event of absence or recusal of the Chairman. In the absence of both the Chairman and the Vice Chairman and assuming that there is a quorum, an Acting Chairman may be elected by the Board for a particular meeting.

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MEETINGS

1. Regular Meetings shall be held at the Fitzwilliam Town Hall at 7:00 p.m. on the First and Third Tuesday of each month. The Chairman may cancel or postpone a meeting upon good cause. Other meetings may be held on call of the Chairman, Vice-Chairman or three (3) members, provided notice is given to each member and is (legally) posted in two (2) public places 24 hours before the meeting. There shall be at least one regular meeting per month. (RSA673:10.II.)
2. Public Hearings – Notice of a Public Hearing must be given at least 10 calendar days before the hearing not including the day of posting or the day of the Public Hearing. Notice of each hearing shall be published in a paper of general circulation in the town and shall be posted in at least two (2) public places.
3. Quorum - A majority (4) of the members of the Planning Board shall constitute the quorum necessary to transact business at any meeting of the Board.
4. Designation of Alternate Members – Whenever a regular member of the Planning Board is absent or whenever a regular member becomes disqualified, the Chairman shall designate an alternate, if one is present, to act in the absent member's place; except that only the alternate designated for the Board of Selectmen shall serve in place of that member. (RSA 673:11)
5. Disqualification – If any member finds it necessary to disqualify him/herself from sitting in a particular case, as provided in RSA 673:14, the member shall notify the Chairman as soon as possible so that an Alternate may be requested to sit in his/her place. When there is uncertainty as to whether a member should be disqualified to act on a particular application, that member or another member of the Board may request the Board to vote on the question of disqualification. Any vote by the Board on the question of disqualification is advisory only and non-binding, per RSA 673:14, which states "Such a vote shall be advisory and non-binding, and may not be requested by persons other than board members, except as provided by local ordinance or by a procedural rule adopted under RSA 676:1."

Any such request shall be made before the Public Hearing gets under way. This disqualification shall be announced either by the Chairman or the member disqualifying him/herself before the beginning of the Public Hearing on the case. The disqualified member shall absent him/herself from the Board table during the Public Hearing and during all deliberation on the case.

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APPLICATION/DECISION

All forms and revisions prescribed shall be adopted by resolution of the Board and shall become part of these Rules of Procedure.

A. Applications

1. Each application for a hearing before the Planning Board shall be completed using forms provided by the Board and obtainable at the Land Use Office or the Selectman's Office at the Fitzwilliam Town Hall.
3. The application shall be presented to the Land Use Administrative Assistant at the Town Hall to record the date of receipt and amount of fees received.
3. The Board shall hold a Public Hearing no later than thirty (30) days after it votes to accept an application as complete.
4. Appeals to the Zoning Board of Adjustment from an Administrative Decision made by the Planning Board taken under RSA 676:5 shall be filed within thirty (30) days of the decision.

B. Public Notice

1. Notice of Public Hearings on each application shall be given in a newspaper of general circulation in Cheshire County acceptable to the Board and shall be posted in the Fitzwilliam Town Hall and in the Fitzwilliam Post Office at least ten (10) calendar days prior to the Hearing, excluding day of hearing & day of posting.
2. Notice of Public Hearings shall be sent to the applicant, all abutters where "abutter" means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association, as defined in RSA 356-B:3, XXIII. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a manufactured housing park form of ownership as defined in RSA 205-A: 1, II, the term "abutter" includes the manufactured housing park owner and the tenants who own

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manufactured housing which adjoins or is directly across the street or stream from the land under consideration by the local land use board. (RSA 672:3 eff. July 15, 2002.)

C. Public Hearing

All meetings of the Board shall be open to the public. The conduct of the Public Hearings shall be governed by the following rules:

1. The Chairman shall call the Hearing in session, read the Notice of Public Hearing and report on how public notice and personal notices were given.
2. Members of the Board and Alternates may ask questions during testimony.
3. Each person who speaks shall state their name and address and indicate whether they are a party to, or an agent or counsel of a party to the case.
4. Any member of the Board, through the Chairman, may request any party to the case to speak again.
5. Any party to the case who wants to ask a question of another party must do so through the Chairman.
6. The applicant shall be called to present the application and those appearing in favor of the application shall be allowed to speak.
7. Those in opposition to the application shall be allowed to speak.
8. The applicant and those in favor shall be allowed to speak in rebuttal.
9. Those in opposition to the application shall be allowed to speak in rebuttal.
10. The Planning Board will hear any evidence that pertains to the facts of the case or how the facts relate to the provisions of the Fitzwilliam Land Usage By-Laws and Maps and State Zoning Law.
11. The Chairman shall summarize. Opportunity shall be given for comments from the floor.
12. The Hearing on the application shall be closed and the Board will vote, or the Hearing will be continued to a date and time certain.

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13. The Planning Board shall decide all cases within sixty-five (65) days of the acceptance of the completed application. An extension from the Board of Selectmen may be made under certain circumstances.
14. Notice of the decision will be made available for public inspection within 5 business days. If the application is denied, the notice shall include the reasons therefore.

RECORDS

Minutes of Meetings

1. After the completion of a meeting the land use administrative assistant shall, during regular business hours make draft minutes available to anyone at the land use office.
2. Anyone has the right to inspect all notes, materials, tapes, or other sources used for compiling the minutes of such meetings, and to make memoranda or abstracts or to copy such notes, materials, tapes, or sources inspected, except that notes, drafts, and digital recordings made expressly for the purpose of use as an aid in preparing minutes or as otherwise prohibited by statute or RSA 91-A:5 may not be provided for inspection
3. Once minutes have been approved, any notes or recordings maintained in the land use office shall be destroyed.
4. Records of Planning Board meetings shall be kept and maintained in planning board custody at the land use office in an accessible place.

Planning Board Files and Records

1. All land use records shall be kept and maintained in planning board custody at the land use office in an accessible place
2. Upon request for any planning board record reasonably described, the land use administrative assistant shall make available for inspection and copying any such governmental record within its files when such records are immediately available for such release. If the land use administrative assistant is unable to make a governmental record available for immediate inspection and copying, he or she shall, within 5 business days of request, make such record available, deny the request in writing with reasons, or furnish written acknowledgment of the receipt of the request and a statement of the time reasonably necessary to determine whether the request shall be granted or denied. If a computer, photocopying machine, or other device maintained for use by a public body or agency is used by the public body or agency to copy

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the governmental record requested, the person requesting the copy may be charged the actual cost of providing the copy, which cost may be collected by the public body or agency. No fee shall be charged for the inspection or delivery, without copying, of governmental records, whether in paper, electronic, or other form. Nothing in this section shall exempt any person from paying fees otherwise established by law for obtaining copies of governmental records or documents, but if such fee is established for the copy, no additional costs or fees shall be charged.

3. Access to work papers, personnel data, and other confidential information under RSA 91-A: 5, IV shall not be provided.

Issuance of Decision

1. The Planning Board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of all conditions necessary to obtain final approval.
2. Whenever a local land use board votes to approve or disapprove an application or deny a motion for rehearing, the minutes of the meeting at which such vote is taken, including the written decision containing the reasons therefor and all conditions of approval, shall be placed on file in the land use office and shall be made available for public inspection within 5 business days of such vote.
3. Whenever a plat is recorded to memorialize an approval issued by a local land use board, the final written decision, including all conditions of approval, shall be recorded with or on the plat. (RSA 676:3 eff. Sept. 14, 2009.)
4. Whenever a decision is made and a Notice of Decision written, signed and provided to the Applicant, it will be recorded in the Cheshire County Registry of Deeds.

AMENDMENTS

These Rules of procedure may be amended by a majority vote of the members of the Planning Board provided that such amendment is read at two (2) successive meetings immediately preceding the meeting at which the vote is to be taken.